

DE 78-17 - March 14, 1978

**Resign To Run; Municipality; Effective Date Of Resignation
s. 99.012, F.S.**

To: Honorable Robin Krivanek, Supervisor of Elections, Hillsborough County Courthouse, Tampa, Florida 33602

Prepared by: Division of Elections

You have requested an opinion of this office in answer to the following question:

"In a municipality which has a deadline for qualifying instead of a qualifying period, what is the effective deadline for resigning to run for municipal office?"

The resign-to-run law, which applies to municipal officers, states that any individual required to comply with the law by resigning must do so "not less than 10 days prior to the first day of qualifying for the office he intends to seek," s. 99.012(2), F.S. The question you have raised concerns a municipality which has not created a qualifying period as contemplated by the statute.

In such a case it is necessary to fashion an application of the law which still serves to implement the legislative intent. The requirement for submitting one's resignation ten days prior to the beginning of qualifying was to give notice to any prospective candidate of the new vacancy which will need to be filled by election.

Where no qualifying period is provided, it would appear that the intent of the law can be effectuated by requiring resignations be submitted no later than ten days prior to the end of qualifying. While this is a much shorter time than that normally seen, the governing body of the municipality has seen fit not to provide for an opening date of qualifying. Such being the case, the best application of the act available must be utilized. Requiring the official to submit a resignation at least ten days prior to the end of qualifying fulfills the statutory intent by providing some reasonable notice, however short it may be, to the public of a vacancy being created and an opportunity for candidates to qualify therefore.

SUMMARY

If a municipality has not established a qualifying period, the last day for submitting a resignation required by s. 99.012, F.S. is the tenth day prior to the end of qualifying.